

West Virginia

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Licensure Term Assisted Living Residences and Residential Care Communities

Opening Statement Assisted living is regulated by the Department of Health and Human Resources, Office of Health Facility Licensure and Certification. Assisted Living is a housing alternative for older adults who may need help with dressing, bathing, eating, and toileting, but do not require the intensive medical and nursing care provided in nursing homes. There are two types of licensed residential care settings in West Virginia: an assisted living residence (ALR) and a residential care community (RCC). The primary difference between ALRs and RCCs is that residents in the latter must be capable of self-preservation in an emergency. The following requirements apply to both types of facilities unless otherwise noted.

A separate license must be obtained for a facility to offer specialized units for persons with Alzheimer's disease or other dementia. Such facilities must be licensed as either an ALR or a skilled nursing facility. Licensed facilities that do not market themselves as offering Alzheimer's/dementia special care units may serve residents with early dementia symptoms.

Legislative and Regulatory Update Regulations for ALRs were last updated in 2006 and regulations for RCCs were last updated in 1999.

As of 2015, the state requires ALR employees to have criminal background checks performed through the West Virginia Clearance for Access: Registry and Employment Screening Act. WV Code 16-49-1 et. seq. West Virginia was selected as a demonstration state for computerized background checks.

Definition ALR: Any living facility or place of accommodation in the state, however named, available for four or more residents that is advertised, offered, maintained, or operated by the ownership or management for the express or implied purpose of providing personal assistance, supervision, or both to any residents who are

dependent upon the services of others by reason of physical or mental impairment and who may also require nursing care at a level that is not greater than limited and intermittent. A small ALR has a resident capacity of four to 16 residents. A large ALR has a resident capacity of 17 or more.

RCC: Any group of 17 or more residential apartments that are part of a larger independent living community that provides personal assistance or supervision on a monthly basis to 17 or more persons who may be dependent upon the services of others by physical or mental impairment or who may require limited or intermittent nursing services, but who are capable of self preservation.

Disclosure Items

ALR: The facility and the resident enter into a written contract on admission that specifies, at a minimum: (1) the type of resident population the residence is licensed to serve; (2) the nursing care services that the residence will provide to meet the resident's needs and how they will be provided; (3) an annual disclosure of all costs; (4) refund policy; (5) an assurance that the resident will not be held liable for any cost that was not disclosed; (6) discharge criteria; (7) how to file a complaint; (8) policies for medication; (9) management of residents' funds; and (10) whether the residence has liability coverage.

RCC: The facility and the resident enter into a written contract on admission that specifies: (1) the facilities' admission, retention and discharge criteria; (2) the services that the residence will provide to meet the resident's needs; (3) disclosure of all costs; (4) how health care will be arranged or provided; (5) how to file a complaint; and (6) policies for medication.

Facility Scope of Care

Facilities may provide assistance with activities of daily living and/or supervision and have the option of providing limited and intermittent nursing services. They may also make arrangements for hospice or a Medicare-certified home health agency.

Third Party Scope of Care

If a resident has individual, one-on-one needs that are not met by the allowable service provision in the facility and the resident has medical coverage or financial means that permit accessing additional services, the facility shall seek to arrange for the provision of these services, which may include intermittent nursing care or hospice care. The provision of services must not interfere with the provision of services to other residents.

Admission and Retention Policy

Residents in need of extensive or ongoing nursing care or with needs that cannot be met by the facility shall not be admitted or retained. The licensee must give the resident 30-day written notice

and file a copy of the notice in the resident's record prior to discharge, unless an emergency situation arises that requires the resident's transfer to a hospital or other higher level of care, or if the resident is a danger to self or others.

Additionally, for an RCC, only individuals with the capability of removing him or herself from situations of imminent danger (e.g., fire) may be admitted. A resident who subsequently becomes incapable of removing him or herself may remain in the RCC in specified circumstances.

Resident Assessment

Each resident must have a written, signed, and dated health assessment by a physician or other licensed health care professional authorized under state law to perform this assessment not more than 60 days prior to the resident's admission, or no more than five working days following admission, and at least annually after that. Each resident must have a functional needs assessment completed in writing by a licensed health care professional that is maintained in the resident's medical record. This assessment must include a review of health status and functional, psychosocial, activity, and dietary needs.

Medication Management

ALR: Only licensed staff may administer or supervise the self-administration of medication by residents. As of July 1999, Approved Medication Assistive Personnel (for which specific training and testing is required) can administer medications in the facility.

RCC: The residence must ensure that resident care is provided by appropriately licensed health care professionals. The prescribing health care professional must determine whether or not the resident can self-administer medications.

Square Feet Requirements

ALR: Bedrooms in an existing large ALR must provide a minimum of 80 square feet per resident. In an existing small ALR, a semi-private room must provide at least 60 square feet per resident and a private room 80 square feet per resident. New facilities, construction or renovations, require at least 100 square feet of floor area in a single-occupancy room and 90 square feet of floor area per resident in a double-occupancy room.

RCC: Each apartment must be at least 300 square feet, have doors that can lock and contain at least one bedroom, one kitchenette to include a sink and refrigerator, and one full bathroom.

Residents Allowed Per Room

A maximum of two residents is allowed per resident unit.

Bathroom Requirements

ALR: Common toilet, lavatory, and bathing facilities are permitted. In

new construction, facilities must have a minimum of two bathrooms at a ratio of no less than one toilet and lavatory for every six residents. A minimum of one bathing facility per floor at a ratio of one bathing facility for every 10 residents.

RCC: Each apartment must have its own full bathroom to include a bathing area, toilet, and sink.

Life Safety

All ALRs and RCCs with four or more beds must comply with state fire commission rules and must have smoke detectors, fire alarm systems, and fire suppression systems. Small ALRs (with four to 16 beds) must have a National Fire Protection Association (NFPA) 13D- or 13R-type sprinkler system. Large ALRs (with 17+ beds) must have an NFPA 13-type sprinkler system. All facilities must have smoke detectors in all corridors and resident rooms. Assisted living communities with permanently installed, fuel-burning appliances or equipment that emits carbon monoxide as a byproduct of combustion are required to have carbon monoxide detectors. Facilities must have manual pull stations and a fire alarm system. Each facility must have a written disaster and emergency preparedness plan with procedures to be followed in any emergency.

Unit and Staffing Requirements for Serving Persons with Dementia

If the facility advertises or promotes a specialized memory loss, dementia, or Alzheimer's unit, a separate license must be obtained. The Alzheimer's/dementia special care unit or program must provide sufficient numbers of direct care staff to provide care and services; staffing levels must meet specified ratios.

Staff must complete a minimum of 15 hours of documented training prior to supervised direct hands on resident care and an additional 15 hours of training prior to unsupervised direct care. The facility must provide a minimum of 8 hours of annual training to all staff. See "Staff Education/Training" for required trainings for staff at ALRs, including those residences licensed as an Alzheimer's/dementia special care unit or program. No specific time requirements exist for these trainings except that two hours of Alzheimer's/dementia training must be provided.

Staffing Requirements

ALR: An administrator must be on staff. At least one direct care staff person who can read and write must be present 24 hours per day. A sufficient number of qualified employees must be on duty to provide residents all the care and services they require. The number of additional direct care staff on the day and night shifts increases by a defined ratio depending on the number of residents identified on their functional needs assessment to have two or more needs as defined in the code. If nursing services are provided, a registered nurse must be employed to provide oversight and supervision. One

employee who has current first aid training and current CPR training, as applicable, must be on duty at all times.

RCC: An administrator must be on staff. At least one residential staff person must be present 24 hours per day. A sufficient number of qualified employees must be on duty to provide residents all the care and services they require.

**Administrator
Education/Training**

For large ALRs and RCCs, administrator must be at least 21 years of age and hold an associate's degree or its equivalent in a related field. For small ALRs, the administrator must be 21 years of age and have a high school diploma or GED. The administrator must have a background check. The administrator of an ALR must have eight hours of training annually. The administrator of an RCC must have 10 hours of training annually, and the training must be related to the administration and operation of RCCs.

Staff Education/Training

ALR: Personal care staff must complete an orientation and annual in-service training sessions. Orientation includes, at a minimum: emergency procedures and disaster plans; the residence's policies and procedures; resident rights; confidentiality, abuse prevention and reporting requirements; the ombudsmen's role; complaint procedures; specialty care based on individualized resident needs and service plans; the provision of group and individual resident activities; and infection control. Annual training is on the topics of: resident rights; confidentiality; abuse prevention and reporting requirements; the provision of resident activities; infection control; and fire safety and evacuation plans.

RCC: New employees must complete an orientation on emergency procedures and disaster plans; the residence's policies and procedures; resident rights; abuse, neglect, and mistreatment policies; complaint procedures; care of aged, infirm, or disabled adults; personal assistance procedures; specific responsibilities of the residential staff for assisting current residents; CPR and first aid; and infection control. Annual training must be provided on the topics of resident rights; confidentiality; abuse, neglect, and mistreatment; emergency care of residents; the responsibilities of the residential staff for assisting residents; and infection control.

**Entity Approving
CE Program**

None specified.

**Medicaid Policy and
Reimbursement**

West Virginia does not use Medicaid to cover services in any type of residential care setting.

Citations

Administrative Law, Assisted Living Residences. [May 1, 2006]
<http://apps.sos.wv.gov/adlaw/csr/ruleview.aspx?document=2705>

Administrative Law, Residential Care Communities. [July 1, 1999]
<http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-75>

Administrative Law, Alzheimer's/Dementia Special Care Units and Programs. [May 1, 2006]
<http://apps.sos.wv.gov/adlaw/csr/rule.aspx?rule=64-85>

West Virginia Code. Chapter 16, Article 15-5D Assisted Living Residences.
<http://www.legis.state.wv.us/WVCODE/Code.cfm?chap=16&art=5D#05D>

West Virginia Code. Chapter 16: Public Health. Article 49. West Virginia Clearance for Access: Registry and Employment Screening Act.
<http://www.legis.state.wv.us/wvcode/ChapterEntire.cfm?chap=16&art=49>